

**UNITED STATES DISTRICT COURT FOR THE EASTERN
DISTRICT OF NEW YORK**

Notice of Proposed Settlement of Class Lawsuit

If you worked for Alle Processing between December 3, 2002 and March 31, 2016, performing food service work, you could get a payment from a class action settlement.

A federal court authorized this notice. This is not a solicitation from a lawyer.

The Named Plaintiff and certified Class in this case is comprised of current and former food service workers or employees working in other related trades employed by Alle Processing Corp. The Defendants in this case are Alle Processing Corp. and Schreiber Processing Corp., and Albert Weinstock, Edwin Weinstock. Plaintiffs sued Defendants claiming that they violated the federal Fair Labor Standards Act and the New York Labor Law. Plaintiffs sought recovery of unpaid overtime wages, spread-of-hours wages and unpaid prevailing wages. The Defendants denied that Plaintiffs are owed any additional compensation.

- Plaintiffs and Defendants have settled. Defendants agreed to pay up to \$5,200,000, which will be used to pay current and former employees who qualify. Defendants agreed to settle, but deny any wrongdoing. The Court has not decided who is right and who is wrong.
- The amount of your individual settlement payment will be based on the amount of time you worked for Defendants between December 3, 2002 and March 31, 2016.
- The lawyers for the employees have asked the Court for 27.5% of the total settlement fund (\$1,430,000) to compensate them for investigating the facts, litigating the case, negotiating the settlement, and to cover their out-of-pocket costs.
- Read this notice carefully. Your legal rights may be affected whether you act or don't act. You have a choice to make now:

YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT

PARTICIPATE	In order to receive any money from the settlement, <u>you must return the enclosed Claim Form by April 17, 2017</u> . If you do not return a Claim Form and fully-completed IRS W-4 and W-9 tax forms by this date, you will not receive a payment and will give up certain rights. You may file a claim even if you do not have a Social Security Number (“SSN”) or Tax Identification Number (“TIN”). You will have until <u>March 6, 2018</u> to obtain a SSN or TIN and to complete the W-4 and W-9 forms in order to receive your settlement check.
OBJECT	You can write to the Court about why you do not agree with the settlement. You can also ask to speak in Court about the settlement. If you object but want to participate in the settlement, you still must also submit a Claim Form and IRS W-4 and W-9 tax forms if you want to receive money from this settlement. If the Court rejects your objection, you will still be bound by the terms of the settlement for your claims under New York law. Your objection must be postmarked no later than <u>April 17, 2017</u> .
EXCLUDE YOURSELF	If you wish to exclude yourself from the settlement, you must follow the directions outlined in Paragraph 13 below. If you exclude yourself, you will receive no payment. This is the only option that allows you to ever be part of another lawsuit against Defendants about the claims under New York law in this case. Your exclusion request must be postmarked no later than <u>April 17, 2017</u>
DO NOTHING	Get no payment. Give up your right to sue Defendants about the claims under New York law in this case.

- Your rights and options – **and the deadlines to exercise them** – are explained in this notice.
- The Court in charge of this case still has to decide whether to approve the settlement. Payments will be made if the Court approves the settlement and after any appeals are resolved. Please be patient.

BASIC INFORMATION

1. Why did I receive this notice?

You have received this notice because Alle Processing Corp.'s records show that you are a member of the Class having worked in a food service job or a job in another related trade at Alle Processing between December 3, 2002, through March 31, 2016. The Court ordered that you be sent this notice because you have a right to know about this proposed settlement and your options before the Court decides whether to approve the settlement. This notice explains the lawsuit, the settlement, your legal rights, what benefits are available, who is eligible for them, and how to get them. The lawsuit, known as *Morris, et al. v. Alle Processing Corp., et al.*, 08 Civ. 4874, is pending in the United States District Court for the Eastern District of New York. United States District Judge Joan M. Azrack is overseeing this case and the settlement.

2. What is this lawsuit about?

The Plaintiffs allege that the Defendants failed to pay them overtime wages for hours worked over forty (40) in a given workweek, in violation of the Fair Labor Standards Act (FLSA) and New York Labor Law (NYLL). The Plaintiffs also allege that Defendants failed to pay them prevailing wages for work performed in connection with contracts the company entered into with the City of New York. Finally, Plaintiffs allege that they were not paid one extra hour at the minimum wage rate when they worked in excess of 10 hours in a single shift. Defendants deny that they violated any laws or did anything wrong, and maintain that the Plaintiffs were properly paid. The Court has not issued any decision in this case about who is correct.

3. What is a class action?

In a class action lawsuit, one or more employees called the "Class Representatives" sue on behalf of other employees with similar claims. The Class Representative in this case is Rafael Mateo. All of the employees together are called the "Class" and each employee is called a "Class Member." One Court resolves the issues for all Class Members, except for those who exclude themselves from the Class. Judge Azrack is in charge of this class action. The law firm of Virginia & Ambinder, LLP is the "Class Counsel" in this case and represents all of the Class Members.

4. Why is there a settlement?

The Court did not decide in favor of Plaintiffs or Defendants. The Plaintiffs think they could have won if they went to trial. The Defendants think the Plaintiffs would not have won anything from a trial. But, there was no trial. Instead, both sides agreed to a settlement. That way, they avoid the costs, delays, and uncertainties associated with a trial, and the employees allegedly affected will get compensation. The Class Representative and Class Counsel think the settlement is the best result for all potential Class Members. Class Counsel believes that the terms and conditions of the settlement are fair, reasonable, and adequate and, having had the chance to investigate claims that could be brought by or on behalf of the Class, that the settlement is in the best interest of the Class Representative and the Class Members.

WHO IS A PARTICIPANT IN THE SETTLEMENT

5. How do I know if I am part of the settlement?

You are automatically a member of the Class if you worked at Alle Processing Corp. performing food service work or work in a related trade any time between December 3, 2002 and March 31, 2016. You are not a member of the Class if you were a corporate officer, a shareholder, a director, a clerical employee, a rabbinical employee, a salaried supervisory employee, or an administrative employee, or if you previously accepted an Offer of Judgment made by the Defendants in this lawsuit. In order to receive money from the settlement however, you must return the enclosed Claim Form (as described in Paragraph 10 below) and completed IRS W-4 and W-9 tax forms. In addition, in order to receive money from the settlement, you must not have assigned or transferred away your rights to participate in the settlement.

6. I'm still not sure if I am included?

The Court has determined the law firm of Virginia & Ambinder, LLP, 40 Broad Street, 7th Floor, New York, NY 10004, (212) 943-9080, is qualified to represent you and all Class Members. If you are still not sure whether you are included, you can call Class Counsel, Virginia & Ambinder, LLP at (212) 943-9080 for more information. If you require Spanish translation, please ask for Grisell Hernandez or Ines Cruz.

All communications with Virginia & Ambinder will be completely confidential and privileged.

7. May I participate in this settlement if I was an undocumented alien while working for Alle?

You may participate in this settlement even if you were an undocumented alien at any time between December 3, 2002 and today. You will be required to fill out completed IRS W-4 and W-9 tax forms to receive the settlement check. You will need to furnish a proper Social Security Number (SSN) or Tax Identification Number (TIN) to get your settlement payment. A Tax Identification Number is a tax processing number only available for certain nonresident and resident aliens, their spouses, and dependents who cannot get a Social Security Number (SSN).

To obtain a TIN, you must complete an IRS Form W-7, IRS Application for Individual Taxpayer Identification Number. Please contact Class Counsel (Question 17 below) if you require assistance obtaining or completing these forms.

THE SETTLEMENT BENEFITS – WHAT YOU GET

8. What does the settlement provide?

Defendants have agreed to pay up to \$5,200,000, which will be used to pay the Class Members, Class Counsel, service awards, out-of-pocket costs, mediation costs and class settlement administration fees. As explained later in this notice, Class Counsel has asked the Court for up to 27.5% of the settlement fund to cover Class Counsel's attorneys' fees, Class Counsel's out-of-pocket costs, and the costs and fees incurred by the Settlement Claims Administrator shall also be paid. In addition, the Class Representative Mateo has requested a service payment of up to \$5,000 in recognition of his services to the Class. If approved, the service payment would be paid from Class Counsel's approved fees and costs.

9. How much will my payment be?

If you return a valid Claim Form and completed W-4 and W-9 IRS tax forms by **April 17, 2017**, your settlement allocation will be based on the following:

If you were employed between December 3, 2002 and December 31, 2012, you will receive \$30.13 for every reported work week. This weekly figure represents a total weekly payment comprised of the sums of: (i) \$9.69, representing 1.5 hours per week of spread of hours compensation; (ii) \$7.03, representing 0.5 hours of NYLL Section 230 prevailing wage compensation for the classification of Cook Level 1, less amounts paid; and (iii) \$13.41, representing 1.8481 hours of "straight time" uncompensated work.

If you were employed between January 1, 2013 and November 1, 2015, you will receive \$20.44 for every reported work week. This weekly figure represents a total weekly payment comprised of: (i) \$7.03, representing 0.5 hours of NYLL Section 230 prevailing wage compensation for the classification of Cook Level 1, less amounts paid; and (ii) \$13.41, representing 1.8481 hours of "straight time" uncompensated work.

If you were employed between November 2, 2015 and March 31, 2016, you will receive a total payment of \$250.00. If you worked both prior to and after November 1, 2015, you will be entitled to only the greater of: (i) \$250.00; or (ii) the amount calculated pursuant to the formula set forth in this Section for work performed on or prior to November 1, 2015.

The Settlement Administrator will deduct a portion of your allocated share of the settlement fund to cover legally required taxes and withholdings.

HOW YOU GET A PAYMENT

10. How can I get my payment?

In order to receive a payment from this settlement, you must complete and return the enclosed Claim Form and IRS W-4 and W-9 tax forms to the Settlement Claims Administrator at

Arden Claims Service, LLC
Mailing Address: PO Box 1015, Port Washington, NY 11050
E-Mail Address: info@ardenclaims.com
Fax Number: 516-944-1771 Phone Number: 877-623-2703
by April 17, 2017

If you choose to exclude yourself from the settlement (as explained in Paragraph 14 below), or you fail to complete and return the Claim Form prior to the deadline, then you will not receive a payment. The law prohibits Defendants from retaliating against you for participating in the Settlement.

11. When will I receive my payment?

The Court will hold a hearing on May 30, 2017 to decide whether to approve the settlement. If the Court approves the settlement and there are no appeals or requests made for reconsideration or rehearing, then your payment will be mailed to you within approximately sixty (60) days of the Court's approval order. If you receive a settlement check, you must deposit or cash your settlement check within ninety (90) calendar days after it is mailed to you. If you do not, you will forfeit this money and will still be bound by the settlement.

If your address or contact information changes, you must inform Class Counsel. If you do not inform Class Counsel about such changes, you may not receive a settlement check.

12. How will my payment be taxed?

Fifty percent (50%) of your payment will be taxed as wages and fifty percent (50%) will be taxed as 1099- Misc non-wage income representing liquidated damages and interest. Neither Class Counsel nor Defendants makes any representations concerning the tax consequences of this settlement and you are advised to seek your own personal tax advice regarding the tax implications of the settlement.

By submitting a Claim Form, you agree to hold Defendants harmless, up to the amount of your settlement payment, for your share of any unpaid payroll taxes and/or your failure to pay taxes on any income received from your participation in this settlement. This means that if Defendants incur such obligations and expenses, you may have to return some or all of your settlement payment to Defendants. If you have any questions about this provision, you should contact Class Counsel.

13. What am I giving up to get a payment or stay in the Class?

Unless you exclude yourself ("opt-out") (as explained in Paragraph 14 below), you will remain in the Class and will release the NYLL claims in this case. If you complete and return a Claim Form, you will also release the FLSA claims in this case. Releasing a claim means that you cannot sue or be party to any other lawsuit against Defendants about that claim. The Settlement Agreement contains the complete terms of the release. Unless you exclude yourself from the class, all of the Court's orders will apply to you and legally bind you.

EXCLUDING YOURSELF FROM THE SETTLEMENT

If you want to keep the right to sue or continue to sue Defendants on your own about the legal issues in this case, then you must exclude yourself from the Class. The process of excluding yourself is also sometimes referred to as "opting out" of the Class.

14. How do I opt out of the settlement?

To exclude yourself from the settlement, you must mail a written, signed statement including your name, address, and telephone number(s) to the Settlement Claims Administrator, **Arden Claims Service, LLC, PO Box 1015, Port Washington, NY 11050**. This written statement should also contain a statement such as "I hereby opt out of the Alle class action settlement," or a statement to similar effect. The written opt-out statement must be postmarked **no later than April 17, 2017**. If you ask to be excluded, you will not receive a settlement payment and will not be legally bound by anything that happens in this lawsuit. If you wish to exclude yourself in order to file an individual lawsuit against Defendants, you should speak to a lawyer as soon as possible because your claims are subject to a statute of limitations and, pursuant to Section 2.9(A)(1) of the Settlement Agreement, an individual lawsuit brought **after April 20, 2017** may be barred.

15. If I don't exclude myself can I sue Defendants for the same thing later?

No. Unless you exclude yourself, you give up any rights to sue Defendants for the claims under the NYLL in this case. Section 3.7 of the Settlement Agreement contains the complete terms of the release that will apply to you unless you exclude yourself.

If you return a Claim Form, you will also give up any rights to sue Defendants for the FLSA claims in this case.

16. If I don't exclude myself, can I get money from this settlement?

No. If you exclude yourself, you will not receive any money from this settlement. If you exclude yourself, you may sue, continue to sue, or be part of a different lawsuit against Defendants regarding the same claims.

THE LAWYERS REPRESENTING YOU

17. Do I have a lawyer in this case?

The Court has determined the law firm of Virginia & Ambinder, LLP, 40 Broad Street, 7th Floor, New York, NY 10004, (212) 943-9080, is qualified to represent you and all Class Members. These lawyers have been designated as "Class Counsel" in this lawsuit. More information about Virginia & Ambinder, LLP, their practice, and their lawyers' experience is available at www.vandallp.com. If you want to be represented by your own lawyer, you may hire one at your own expense.

18. How will the lawyers be paid?

Class Counsel has asked the Court to approve payment of up to \$1,430,000, which is 27.5% of the settlement to pay Class Counsel for attorneys' fees and costs. These fees would pay Class Counsel for investigating the facts, litigating the case, negotiating the settlement, for their out-of-pocket costs, and for the costs and fees associated with the administration of the settlement. The Court may award less than these requested amounts to Class Counsel.

OBJECTING TO THE SETTLEMENT

You can tell the Court you don't agree with the settlement or some part of it.

19. How do I tell the Court that I don't like the settlement?

If you're a Class Member, you can object to the settlement if you don't like any part of it. You can give reasons why you think the Court should not approve it. You can also object to Class Counsel's request for attorneys' fees and costs, and the Class Representative's request for a service payment. The Court will consider your views. To object, you must mail a written statement to **Arden Claims Service, LLC, PO Box 1015, Port Washington, NY 11050**, including all reasons for the objection. The written objection statement must be postmarked **no later than April 17, 2017**. Your written statement must be truthful, and include all reasons for your objection. You must also sign the statement and include the following statement: "The information contained in this statement is truthful and accurate to the best of my knowledge."

20. What's the difference between objecting to the settlement and excluding myself?

Objecting is simply telling the Court that you don't like something about the settlement. You can only formally object if you stay in the Class by filing a Claim Form. Excluding yourself is telling the Court that you don't want to be part of the Class. If you exclude yourself, the settlement in this case no longer affects you. However, even if you decide to exclude yourself from the settlement, you may still submit objections to the Court, which may help the Court determine whether the settlement is fair for the rest of the Class Members. Your objection must contain a statement that the objection is true to the best of your knowledge.

THE COURT'S FAIRNESS HEARING

Judge Azrack will hold a hearing to decide whether to approve the settlement. You may attend and you may ask to speak, but you don't have to.

21. When and where will the Court decide whether to approve the settlement?

Judge Azrack will hold a Fairness Hearing on May 30, 2017 at 2:00 PM in Courtroom 6E, 225 Cadman Plaza East, Brooklyn, New York, 11201. You may attend and you may ask to speak, but you don't have to. At this hearing the Court will consider whether the settlement is fair, reasonable, and adequate. The Court will also consider how much to pay Class Counsel. If there are objections, the Court will consider them. After the hearing, the Court will decide whether to approve the settlement. We do not know how long the Court's decision will take. If you wish to be informed of any changes to the date or time of the fairness hearing, you must inform Class Counsel.

22. Do I have to come to the court hearing?

No. Class Counsel will answer questions that Judge Azrack may have. But, you are welcome to come at your own expense. If you mail an objection, you do not have to come to Court. As long as you mailed your written objection on time, the Court will consider it. You may also pay your own lawyer to attend, but it is not necessary.

23. May I speak at the hearing?

If you file a timely objection to the settlement, you may ask the Court for permission to speak at the Fairness Hearing. To do so, you must include the words "I intend to appear at the Fairness Hearing" in your written objection, which must be filed according to the procedure described in Paragraph 19, above. Your testimony at the Fairness Hearing will be limited to those reasons that are included in your written objection.

IF YOU DO NOTHING

24. What happens if I do nothing at all?

If you do nothing, you'll get no money from this settlement. Also, unless you exclude yourself, you will not be able to start a lawsuit, continue a lawsuit, or be part of any other lawsuit against Defendants about the claims under New York law in this case, ever again.

GETTING MORE INFORMATION

25. Are more details available?

This notice summarizes the proposed settlement for the Class Members. More details are available in the Settlement Agreement. If you have any questions or wish to obtain a copy of the complete Settlement Agreement, you can call Class Counsel, Virginia & Ambinder, LLP, at (212) 943-9080. If you require Spanish translation, please ask for Grisell Hernandez or Ines Cruz. Virginia & Ambinder, LLP's address is 40 Broad Street, 7th Floor, New York, NY 10004, and their website is www.vandallp.com.

You may also obtain information about this action and settlement by referring to the court papers filed in this action, which may be inspected at the Office of the Clerk of the Court, United States District Court for the Eastern District, 100 Federal Plaza, Central Islip, New York 11722, during regular business hours. Court documents are also available through <https://www.pacer.gov>.

If you would like to review this and other documents related to this case on-line, in English or in Spanish, please visit our website at www.ardenclaims.com and click on "Cases" and then "Alle Processing Corp."

Arden Claims Service, LLC
Mailing Address: PO Box 1015, Port Washington, NY 11050
E-Mail Address: info@ardenclaims.com
Fax Number: 516-944-1771 Toll-Free Number: 877-623-2703